

**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of	)	
	)	
Community Broadcasting, Inc.	)	File Number EB-03-KC-021
	)	
Licensee of Radio Station KCRL-FM in	)	NAL/Acct. No. 200332560019
Sunrise Beach, Missouri	)	
		FRN 0005-0141-62
Overland Park, Kansas		

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

Released: March 11, 2003

By the Enforcement Bureau, Kansas City Office:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture ("NAL"), we find Community Broadcasting, Inc. ("Community"), licensee of radio station KCRL-FM, Sunrise Beach, Missouri, apparently liable for a forfeiture in the amount of two thousand five hundred dollars (\$2,500) for willful and repeated violation of Section 73.3526(a)(2) of the Commission's Rules ("Rules").<sup>1</sup> Specifically, we find Community apparently liable for failing to maintain all required material in the station's public inspection file.

**II. BACKGROUND**

2. On January 29, 2003, an agent of the FCC's Kansas City Office inspected the public file for radio station KCRL-FM, Sunrise Beach, Missouri. The station's public file contained no contour map and no current ownership report. The station's Director of Broadcasting Operations stated that the current ownership report was on his desk in Overland Park, Kansas. There was no explanation given for failure to provide the contour map.

**III. DISCUSSION**

3. Section 73.3526(a)(2) of the Rules requires a permittee or licensee of an AM, FM, or TV station to maintain a public inspection file. Among the required material to be maintained in the public file, AM and FM licensees and permittees must maintain a copy of any service contour maps, submitted with any application tendered for filing with the FCC, together with any other information in the application showing service contours. These documents shall be retained in the public file for as long as they reflect current, accurate information regarding the station. Additionally, the public file shall contain a copy of the most recent, complete ownership report filed with the FCC for the station, together with any

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<sup>1</sup> 47 C.F.R. § 73.3526(a)(2).

statements filed with the FCC certifying that the current report is accurate, and together with all related material. Section 73.3516(a) of the Rules requires ownership reports to be filed with the station's license renewal application and every two years thereafter on the anniversary of the date that its renewal application is required to be filed.<sup>2</sup> On January 29, 2003, a review of station KCRL-FM's public inspection file revealed no copy of the station's contour map and no copy of the most recent ownership report. The station's Director of Broadcasting Operations stated that the current ownership report was on his desk in Overland Park, Kansas.

4. Based on the evidence before us, we find that Community willfully<sup>3</sup> and repeatedly<sup>4</sup> violated Section 73.3526(a)(2) of the Rules by failing to maintain all required material in the station's public inspection file.

5. Pursuant to Section 1.80(b)(4) of the Rules,<sup>5</sup> the base forfeiture amount for public file rule violations is \$10,000. In assessing the monetary forfeiture amount, we must also take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934, as amended ("Act"), which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require."<sup>6</sup> In this case, we consider that the contour map and the ownership report were the only items missing from the public inspection file. Therefore, we assess the forfeiture amount for the public file violation at \$2,500. Considering the entire record and applying the factors listed above, this case warrants a \$2,500 forfeiture.

#### **IV. ORDERING CLAUSES**

6. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,<sup>7</sup> and Sections 0.111, 0.311 and 1.80 of the Rules,<sup>8</sup> Community Broadcasting, Inc. is hereby NOTIFIED of this APPARENT LIABILITY FOR A FORFEITURE in the amount of two thousand five hundred dollars (\$2,500) for willful and repeated violation of Section 73.3526(a)(2) of the Rules by failing to maintain a copy of the contour map and a copy of the current ownership report in the public file.

7. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NAL, Community SHALL PAY the full amount of the proposed forfeiture

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<sup>2</sup> 47 C.F.R. § 73.3516(a).

<sup>3</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to violations for which forfeitures are assessed under Section 503(b) of the Act, provides that "[t]he term 'willful,' when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act ...." See *Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>4</sup> The term "repeated," when used with reference to the commission or omission of any act, "means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day." 47 U.S.C. § 312(f)(2).

<sup>5</sup> 47 C.F.R. § 1.80(b)(4).

<sup>6</sup> 47 U.S.C. § 503 (b)(2)(D).

<sup>7</sup> 47 U.S.C. § 503(b).

<sup>8</sup> 47 C.F.R. §§ 0.111, 0.311, 1.80.

or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

8. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. and FRN referenced above. Requests for payment of the full amount of this NAL under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>9</sup>

9. The response, if any, must be mailed to Federal Communications Commission, Office of the Secretary, 445 12<sup>th</sup> Street SW, Washington DC 20554, Attn: Enforcement Bureau-Technical & Public Safety Division and MUST INCLUDE THE NAL/Acct. No. referenced above.

10. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices (“GAAP”); or (3) some other reliable and objective documentation that accurately reflects the petitioner’s current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

11. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical & Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC’s Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

12. IT IS FURTHER ORDERED THAT a copy of this NAL shall be sent by regular mail and Certified Mail Return Receipt Requested to Community Broadcasting, Inc., 10550 Barkley, Suite 108, Overland Park, KS 66212.

#### FEDERAL COMMUNICATIONS COMMISSION

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<sup>9</sup> See 47 C.F.R. § 1.1914.

Robert C. McKinney  
District Director  
Kansas City Office  
Enforcement Bureau

Attachment